

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-CR-20298
Honorable Denise Page Hood

MATTHEW M. WOLSKI,

Defendant.

/

ORDER DENYING DEFENDANT'S MOTION FOR SENTENCE REDUCTION

Defendant Matthew Wolski pled guilty to one count of coercion and enticement of a minor in violation of 18 U.S.C. § 2422(b). On March 12, 2009, the Court sentenced Wolski to a mandatory 120 months of imprisonment. On March 17, 2010, Wolski filed a Motion to Vacate, Set Aside, or Correct Sentence. The Court denied Wolski's motion on January 31, 2011. Wolski now asks that the Court reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on the November 1, 2010 amendments to the Sentencing Guidelines regarding the weight given to defendant characteristics when fashioning an appropriate sentence. *See U.S.S.G. App. C, Amendment 739.*

The Court cannot modify a term of imprisonment once it has been imposed absent certain circumstances. *See 18 U.S.C. § 5582(c).* Pursuant to 18 U.S.C. § 3582(c)(2), upon the Director of the Bureau of Prison, the defendant, or the Court's motion, the Court may modify a term of imprisonment of a subsequently lowered sentencing guideline range pursuant to 28 U.S.C. § 994(o) "after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the

Sentencing Commission.” However, such a reduction is only authorized for specifically listed amendments. *See U.S.S.G. § 1B1.10(a)(2)(A)*. It appears that Wolski is relying on Amendment 739, which allows the Court to consider the offender’s age, physical, mental, and emotional condition, and military service when considering whether there should be a departure from the Sentencing Guidelines. *See U.S.S.G. App. C, Amendment 739*. Amendment 739 is not listed as one of the amendments with retroactive effect in section 1B1.10(c). The Court cannot reduce Wolski’s sentence.

Accordingly,

IT IS ORDERED that Defendant’s Motion for Sentence Reduction [**Docket No. 51, filed November 3, 2011**] is **DENIED**.

DATED: June 22, 2012

s/Denise Page Hood
DENISE PAGE HOOD
United States District Judge